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III. REMARKS

Present Application

Claims 1-4, 6, 11-14, 16, 20, 22, 23, 25-30, 33, 35-37, 39-45, 48, 50-52, and 54-56 have been pending in this application. Claims 57-74 have been newly added. No new matter has been introduced with this amendment which is supported throughout the instant Specification, especially on pages 84-97. Applicant respectfully asserts that all of the pending claims are now patentable.

Response to Rejections

35 U.S.C. §112, Second Paragraph

The Examiner's Position

1. Claims 1, 10, 20, 22, 23, 39 and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the Examiner's opinion, the following reasons apply:

- a) Claim 1 and claims dependent thereon are vague and indefinite in that it is not known what is meant by the definition of R². There is no variable R² in Formula (I). It is believed that the applicants intended R². (Claims 1, 22 and 23)
- b) Claim 1 and claims dependent thereon are vague and indefinite in that it is not known what is meant by C₁-C₆ alkyl, instead of the intended C₁-C₆ alkyl. (Claims 1, 22 and 23)

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c) Claim 10 is vague and indefinite in that it is not known what is meant by the definition of R^3 , page 25 where the moieties have a box in the middle of each, i.e. $CH_2C\Box CH$ and $-CH_2C\Box C(CH_3)$.

d) Claim 10 is vague and indefinite in that it is not known what is meant by the definition of R^5 which includes the seven moieties in the last two lines of page 26 where the moieties have a box in the middle of each, i.e. $-C\Box CH$, $-CH_2C\Box CH$, $-CH_2C\Box C(CH_3)$, $-CH_2C\Box C(C_6H_5)$, $-CH_2CH_2C\Box CH$, $-CH_2CH_2C\Box C(CH_3)$ and $-CH_2CH_2C\Box C(C_6H_5)$.

e) Claim 10 is vague and indefinite in that it is not known what is meant by the definition of R^{10} . There is no variable R^{10} in the compounds of Formula (Ic).

f) Claim 10 recites the limitation " $=O$ " in the definition of R^{11} . There is allegedly insufficient antecedent basis for this limitation in the claim.

g) Claim 20 and claims dependent thereon are vague and indefinite in that it is not known what is meant by the definition of R^{10} . There is no variable R^{10} in the compounds of Formula (Ic). (Claims 20, 39 and 54)

h) Claim 20 recites the limitation " $=O$ " in the definition of R^{11} . There is insufficient

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antecedent basis for this limitation in the claim. (Claims 20, 39 and 54)

• **Double Patenting**

2. Claims 1-4, 6, 10-14, 16, 20, 22, 23, 25-30, 33, 35-37, 39-45, 48, 50-52 and 54-56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6, 14-18, 20, 22 and 24-26 of copending Application Serial No. 10/285,776. Although the conflicting claims are not identical, they are allegedly not patentably distinct from each other because the compounds, compositions and method of use of the compounds of formula I in copending Application No. 10/285,776 embraces the compounds, compositions and method of use of the compounds of Formula (I) as claimed herein. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The Applicant's Response

Applicant respectfully traverses the Examiner's 35 U.S.C. §112, second paragraph. Claims 1, 10, and 20 have been amended pursuant to the Examiner's suggestions. The rejections of the Claims 1, 10, and 20 and those Claims dependent therefrom under the statute are therefore deemed moot. In view of the present amendment, Applicant believes the pending claims in condition for allowance. Claims 57-73 have been added to further define the disclosed invention.

Applicant herewith submits an executed Terminal Disclaimer to obviate a provisional double patenting rejection over Applicant's co-pending Application Serial No. 10/285,776, bearing the signature of the responsible representative for the Applicant.

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CONCLUDING REMARKS, REQUESTS AND FEE PAYMENTS

For all of the reasons set forth above, it is firmly believed that pending claims 1 - 4, 6, 10, 11-14, 16, 20, 22, 23, 25-30, 33, 35-37, 39-45, 48, 50-52, and 54-74 are allowable. Early notification of allowance is solicited.

Fees

The Commissioner is hereby authorized to charge payment of any fees that are required under 37 C.F.R. §1.16 in connection with the communication transmitted herewith, to Deposit Account No. 033-975.

Respectfully submitted,

Date: July 15, 2004



Hans-Peter G. Hoffmann, Ph.D.
Reg. No. 37,352
Agent for Applicant
Pillsbury Winthrop LLP
1600 Tysons Boulevard
McLean, VA 22102
(203) 965-8271